

Joint Rule 38. Workplace Harassment Policy

(a) ***Workplace harassment policy of the General Assembly.*** It is the General Assembly's policy to create and maintain a work environment in which all members, legislative employees, and third parties are treated with dignity and respect. Members, legislative employees, and third parties have the right to a workplace that is free from harassment, both subtle and overt. Therefore, the General Assembly strives to prevent and eliminate harassing behavior, and the recurrence of harassing behavior, based on disability, race, creed, color, sex, sexual orientation, religion, age forty and older, national origin, military status, genetic information, or ancestry which members, legislative employees, and third parties may encounter in the course of their work.

(a.5) ***Workplace harassment – definition.*** "Workplace harassment" means any harassment based on disability, race, creed, color, sex, sexual orientation, religion, age forty and older, national origin, military status, genetic information, or ancestry, including verbal or physical behavior or conduct, that denigrates or shows hostility or aversion toward an individual because of that individual's disability, race, creed, color, sex, sexual orientation, religion, age forty and older, national origin, military status, genetic information, or ancestry or that has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. While "workplace harassment" includes sexual harassment, sexual harassment raises issues that are to some extent unique in comparison to other types of workplace harassment. Therefore, sexual harassment warrants separate emphasis and is further described in subsection (b) of this Joint Rule.

(b) *Sexual harassment.*

(1) For purposes of this Joint Rule, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

(A) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(B) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(C) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(2) In the course of implementation of the General Assembly's workplace harassment

policy, the description of sexual harassment contained in paragraph (1) of this subsection (b) and in the written statement prepared pursuant to subsection (c) (1) of this joint rule shall be subject to revision as necessary to conform with the most recent state or federal statutes or case law defining sexual harassment.

(c) *Statement implementing the workplace harassment policy of the General Assembly.*

(1) The staff directors of the Legislative Council, the Office of Legislative Legal Services, and the Joint Budget Committee, the State Auditor, the secretary of the Senate, and the chief clerk of the House of Representatives jointly shall prepare a written statement implementing the workplace harassment policy of the General Assembly set forth in subsection (a) of this Joint Rule and containing the definition of workplace harassment in subsection (a.5) of this Joint Rule. Such statement must be in the form of an employment or personnel policy. Such statement must be applicable to all legislative employees of the agencies or house not subject to the state personnel system, each member of the General Assembly, and third parties. Such statement must be submitted for approval to the Executive Committee of the Legislative Council and, following such approval, must also be included in each agency's personnel manual or equivalent document.

(2) Such statement must also include a specific description of sexual harassment and examples of written, verbal, visual, and physical conduct which may constitute sexual harassment, including but not limited to, examples of the kind of behavior that creates a hostile environment based on sexual harassment.

(3) Such statement must provide that no person will be subject to retaliation for having complained of workplace harassment or for having assisted or participated in an investigation of alleged workplace harassment.

(d) *Implementation of policy – complaint procedure.*

(1) The statement implementing the workplace harassment policy of the General Assembly must provide for the resolution of workplace harassment complaints as follows:

(A) A legislative employee, member, or third party with a workplace harassment complaint may notify that person's contact person. The contact person shall investigate the complaint by interviewing the complainant, the person or persons accused, and any witnesses and by considering all of the circumstances surrounding the alleged incident or incidents which form the basis of the complaint. After this investigation and after appropriate consultation, if necessary, the contact person may resolve the complaint.

Resolution may include disciplinary action when appropriate.

(B) Notwithstanding subparagraph (A) of this paragraph (1) , a legislative employee with a workplace harassment complaint may file a charge of discrimination with the United States Equal Employment Opportunity Commission or the Colorado Civil Rights Division as provided by law.

(e) **Record-keeping.** The statement implementing the workplace harassment policy of the General Assembly must include appropriate record-keeping requirements, including, but not limited to, a provision that complaints of workplace harassment will be investigated and information shared with those having a need to know and in accordance with the law.

(f) **Training.** Persons responsible for implementing the workplace harassment policy of the General Assembly shall receive sufficient training to discharge their duties. The General Assembly shall provide training opportunities for members. In addition, such training shall be provided in the course of orientation of newly elected members.

(g) **Definitions.** As used in this Joint Rule:

(1) "Legislative employee" means an employee of the Legislative Council, the Office of Legislative Legal Services, the Joint Budget Committee, the State Auditor, the Senate, or the House of Representatives, or any legislative aide to a member, legislative intern, or volunteer staff.

(2) "Contact person" means:

(A) The director of Legislative Council, or the director's designee of the opposite gender, for legislative employees of that office;

(B) The director of the Office of Legislative Legal Services, or the director's designee of the opposite gender, for legislative employees of that office;

(C) The staff director of the Joint Budget Committee, or the staff director's designee of the opposite gender, for legislative employees of that office;

(D) The State Auditor, or the State Auditor's designee of the opposite gender, for legislative employees of that office that are not in the state personnel system;

(E) The secretary of the Senate, or the secretary's designee of the opposite gender, for legislative employees of the Senate;

(F) The chief clerk of the House of Representatives, or the chief clerk's designee of the opposite gender, for legislative employees of the House of Representatives; or

(G) Either the President of the Senate, or the President's designee of the opposite gender, or the Speaker of the House of Representatives, or the Speaker's designee of the opposite gender, for members, third parties, and any other person with a complaint.

(3) "Third parties" means newsmen, lobbyists, and members of the general public who have business at the state capitol or who are doing business with legislative service agencies, the Senate, or the House of Representatives.